

Public Safety Officer Standards and Training Council
Meeting Agenda November 20, 2008
8:30 am MLEA Maple Building
2260 Sierra Road East, Helena, MT

MEMBERS PRESENT: Wayne Ternes-POST Director, Winnie Ore-Chair, Deborah Butler, Tony Harbaugh, Bob McCarthy, Dennis McCave, Bonnie Wallem, Ray Murray, Levi Talkington, James Marble, Mike Anderson, Mike Reddick, Steve Barry,

MEMBERS ABSENT: Frannie Weeks, Hannah Tillman

I. 8:30 Meeting called to order – Winnie Ore called meeting to order at 8:40

II. Introductions: Winnie Ore-Chair, Wayne Ternes-Executive Director, Deborah Butler, Levi Talkington, Tony Harbaugh, Ray Murray, James Marble, Dennis McCave, Bonnie Wallem, Bob McCarthy, Mike Anderson, Steve Barry

Introductions of Guests: Tim Shanks-Chief, Great Falls PD, Troy Kechley-Think Dog Consulting, Tana Meuer

III. Approval of Minutes from the August 21, 2008 meeting

Motion to approve- Dennis McCave
Seconded-Bonnie Wallem
Motion carried

IV. 8:40 Old Business

a. EPP request

Wayne requested 2 extra FTE to help with operation for POST. This did not make it to the governor's office.

Winnie O., Wayne T., and Mike A. have an appointment with the Governor's office at 3:30 today to see where we are with the budget request.

b. Sanders County Issue – Jerry McKeen "Executive Session" *(if requested meeting closed to Public (30 minutes))

Wayne stated the council temporarily suspended McKeen's certificate, and thought McKeen was going to be here. McKeen submitted in writing the request to have his records forwarded to himself.

c. Chouteau County Issue – Sheriff Burdick "Executive Session" *(meeting closed to Public (30 minutes))

Tony Harbaugh stated Sheriff Burdick indicated he was not ready to come back because he had not received a response from the city council yet.

V. 9:50 Guest Issues

a. Think Dog Proposal – Troy Kechely

Troy explained he develops courses and teaches about dog behavior and handling. He stated Montana probably has 50% house holds that have dogs so there is concern of proper training. The course is to teach officer what makes a dog do what he does and how to eliminate an issue.

Material taught in this course covers:

- Dog Behavior
- Dog Communications
- Dog Aggression
- Dog Handling and
- Use of Force

Troy stated his goal is to equip every first responder in the field with the knowledge and tools to where the dog is no longer and issue.

Wayne commented that in the future he would like more presenters come to the council to present their courses. In the past courses have been approved without much review.

VI. 10:20 Financial Report

Wayne discussed and explained the FY2009 budget projections and stated POST will be overspent by the end of the year. Total deficit projected this year is around \$14,000.

Wayne stated that when possible we need to set up meetings electronically – met-net, phone conference, etc... the idea is to cut down travel and extra spending.

Steve Barry suggested using a DCI investigator to work on pending cases.

Discussion held.

Deborah mentioned that Kathy Stelling, who works at the AG's office and does the administrative rules, stated they are putting together ORG charts for the ARM's and wondered of POST would like an ORG chart put into the Administrative Rules.

Winnie stated that would be a good idea and would clarify the fact that POST is an entity, not a program 'with-in'.

Deborah commented the only way budgetary requests get to the governor is 'through a department', and we are not a Department so POST is a line item for the department of Justice.

Deborah also stated the department head is exempt from representing the agency in communications with the governor. This means the council can go directly to the governor, not through the agency head.

Also, POST directs and supervises their own budget, record keeping, reporting, administrative, clerical, etc. and can also hire their own staff.

These three things were exempted out of what the statute says.

Bonnie stated as an FYI, in 2002, there were three fiscal note attempts. The fiscal note that came from the MBCC said the budget would be \$122,044 for 2008 and, \$117,917 for 2009, 2010, 2011. Then DOJ said they would take 1.5 employees from the MBCC budget, so DOJ put together a fiscal note which stated POST would only need \$65,229 in 2008, \$62,610 in 2009 and \$64,604 in 2010 and \$66,659 for 2011. This being found in the MBCC committee meeting minutes.

Steve Barry expresses concerns of the next biennium being based on FY2008 expenses, which will start out very short unless the operating expenses in this base year are up where they need to be. Steve feels these expenses should be built into the budget so this does not have to be re-visited in the next biennium.

Steve also stated one of the avenues in discussion was the idea of the new attorney general coming on board can/may bring forward any budget into the next biennium.

Wayne expressed the concern of being “administratively attached” and how people speak ‘about’ us, for us, not to us. There is a lack of education about who POST is.

Bob asked how to raise our base to get us out of this hole and who do we talk to?

Deborah commented Steve Bullock’s email address is: sbullock@mt.gov and has an office set up during this transition.

Winnie feels it would be appropriate to contact Steve Bullock, but wanted to visit the idea before actually doing so. A Memorandum of Understanding (MOU) was suggested so they could ask what it looks like in practical terms; and this would help everyone’s understanding.

Winnie said we may also need some legislative clarification done about what the intent of a bill was. (Statement of Intent)

Dennis asked why we aren’t utilizing Department of Justice’s finance people. Winnie advised that we are.

Winnie commented that this budget is so grim, we are looking at what POST is statutorily obligated to do; possibly issuing basic certificates only... we may have to cut out advanced certificates. These are issues that need to be discussed in the future.

Steve Barry commented these would be very appropriate arguments as to why additional funding needs to be pursued through the legislative process. Those statutory mandates are critical and if they can’t be complied with, it sends a strong message to a new Attorney General.

Winnie commented that Mike Batista showed concern about how important it is to get an investigator on board. This function is very necessary because it’s about being fair and thorough, so it’s best not to utilize a council member.

Steve Barry commented that DCI / Mike Batista stated that there was additional FTE that did pass through into the next biennium so there might be some support for that investigator available. It would be worthy of a discussion to possibly provide this.

Kevin Olson clarified the ORG chart and how POST comes off DCI. The reason we are Connected to DCI is not for control but because we don’t have the capacity to function; DCI is the entity that has to provide the budget and claims paying process for us.

Deborah said she was asked by Kathy Stelling (who works at the AG's office and does the ARMS) if POST would like their own line item on the ORG chart.

Winnie said that would be a good idea which would clarify that we are our own entity.

Ray Murray commented that using a DCI investigator, we would gain a perception of fairness if we could get a firm agreement to make a DCI agent available to POST's investigative issue, then POST could concentrate the budget on things that are POST and only done by POST.

Dennis stated that the investigative duties fall onto the executive director, and feels the greater concern is the hearing processes. He states that we exist to allow people to work as Law Enforcement officers and to stop them from working as Law Enforcement officers.

Wayne commented that he is willing to just tackle those investigative files but with the understanding that POST may need to put on hold all the advanced certificates. Wayne said these are very time consuming and also initiates a great bulk of our phone calls; particularly the agencies getting paid by cert.

Steve Barry again stated that there needs to be an investigative process whether it's a full time employee that is attached to POST or whether it's a memorandum of agreement with DCI or any other entity that's going to do quality objective investigations of these issues. Steve does not feel it's the executive director's role; however, the director could be trained to be the hearings officer.

Winnie reminded the council of the staffing deficit and asked the council what Wayne's priorities need to be?

Levi commented he agreed with Dennis and our main focus is for the investigations.

James Marble stated that he agrees with Steve about the investigator.

Summary: the council stated that the investigative files need to become a priority, and the database clean up project.

Winnie also suggested cutting meeting/travels and trying virtual meetings.

Dennis shared concerns of finding the facilities for virtual meetings, so he suggested phone conferencing monthly and eliminating one meeting a year, only holding three.

Summary: Winnie confirmed that it had been decided to hold phone conference meetings monthly that would last between 2-3 hours and can share document through "Go-To-Meeting" (if necessary) and then moving to three meetings a year.

Ray Murray expressed concerns of a loss of the quarterly face to face meetings. And feels this indicated that there is no urgency to what we do.

Ray feels the elimination of council meetings should be put at a very low priority level.

Kevin Olson suggested utilizing Bob McCarthy's services after he retires to fill the shoes of our hearings officer.

Kevin also stated that there is a conflict of interest using Erin Inman (MLEA Asst. Attorney General) as the hearing's officer.

Dennis McCave motioned to hold monthly phone conferences and going from quarterly to only three annual council meetings a year.

James Marble seconded the motion

Motion carried

- * Ray Murray wanted a substitute motion to let the call of the chair as she sees what needs to be done for both face-to-face meetings and telephone meetings.
- * Winnie clarified Ray's motion stating that if there were things that really needed to bring the council together that we wouldn't be locked into this motion, we could come together as needed.

Summary:

- *Wayne will work with Mike Batista on working to clear these pending cases that need further investigation.
- *Move the database forward with the help of the temp which is already in progress.
- *In the future, we will pursue finding someone such as Bob McCarthy to serve as our hearings officer to keep it a fair process.
- *And address the changes to the council meetings.

Winnie commented another concern where Wayne can't attend some of the National level meetings that he should be attending; such as National IADLEST. Winnie feels it's very important that the Executive Director attend these and will try to push on this in the budget.

Steve Barry commented these national level meetings don't have anything to do with what we currently find as priorities.

Kevin Olson stated that if POST was not financially sound by June 2009, Wayne will accompany Kevin to the National IADLST meeting.

VII. 10:30 New Business

- a. Report on Adopting the Oregon Physical Ability Test (ORPAT) – Kevin Olson, Jim Thomas, Jeff Douglass from MLEA; Corey Livesay, Lewis & Clark County SO, Jeff Wade, Gallatin County SO**

Kevin Olson and Jeff Douglass presented ORPAT. Kevin stated that cooper standards are not validated for employment standards.

During a slide show presentation, Jeff Douglass described the training process and the time frames of completion.

Kevin Olson explained in more detail, the benefits of ORPAT vs. (MLEA modified) Cooper Standards:

(MLEA modified) Cooper

Not job related
Not validated
Age/sex adjusted
Mostly aerobic
Non-uniform test environment
Not law enforcement based

ORPAT

is job related
validated
not age/sex adjusted
mostly anaerobic
Uniform testing environment
law enforcement based

Kevin would like to utilize POST database to record fitness data (once the database is clean)

Summary: the ORPAT, is an example of this type of testing is a viable solution to the issue of meaningful, non-discriminatory physical capabilities testing for law enforcement officers.

Tim Shanks explained that the needed equipment could be loaded into a trailer so it can be taken to all the testing sites where both the academy and the consortium provide testing opportunities.

Kevin explained the only way to get access to these trailers would be to have a certified physical fitness trainer. Kevin stated the academy plans on putting together a 40 hrs course to certify fitness proctors.

Tony Harbaugh commented that he would support this 100%.

Dennis McCave has concerns whether or not this is an employment standard or training standard? Dennis stated if an employment standard; is it pre-employment? Dennis supports this test.

Summary: Winnie suggested placing the topic of physical fitness onto the agenda for the next meeting held in February 2009 for further discussion.

Dennis asked what standards were in discussion? Whether or not height was a factor? Dennis commented that if you establish a training standard that's validated to the job, then what's the difference.

Winnie explained continuous upkeep of the standards.

Dennis stated that if a continuous and ongoing fitness standard was imposed then there must also be the ability to maintain their conditioning and if they fall below that as an ongoing employment they must be provided on-duty time to condition themselves, yet trainer and equipment must be provided. Dennis feels ongoing standards would be extremely burdensome to many agencies in the state.

Winnie stated there *must* be ongoing employment standards if in fact this *is* an employment standard.

Ray Murray stated he would be in favor of grand-fathering existing employees in creating this standard.

Tony Harbaugh commented that at the Federal level that's what they had to do to avoid extensive litigation. They could require participation, but could not require pass/fail status.

Dennis stated it will be an issue where the responsibility to test is placed since it seems to be very expensive; with the questions as who's going to staff the test, who's going to maintain, or whether the academy is going to be the central repository?

Winnie stated the physical fitness discussion will be added to next agenda.

- b. Resolution amending resolution #08-001(a) to include additional categories for training for calculation of hours required for intermediate, advanced and supervisory certificates.**

Resolution was introduced; Wayne stated that there are additional categories necessary that would allow more specific training to be accounted for.

Levi suggested changing the category 'Supervisor' to "Basic Supervisor".

Mike Anderson moved to pass the resolution #08-001(a) with the change made reading "Basic Supervisor"

Tony Harbaugh seconded

Motion carried

12:00 Lunch Break

12:45 d. Legal Counsel's Report

1. Default Hearings update

Deborah stated that she can close out the cases for Jason Pitman, Becky Whelchel and Tadd Pike and prepare an order dismissing the contested case at ALS.

Deborah is still waiting on Chris Gardella's case.

Shannon Sheridan was a dispatcher in Cascade County, a default hearing was held and she didn't show up. She misused the CIJN system in addition to violating another policy.

It is recommended that the public certification of Shannon Sheridan be permanently revoked and she surrender her certificate to POST.

Deborah had prepared an order for Winnie Ore's signature that based on the findings and facts that her certificate immediately be revoked and she shall immediately surrender her certificate.

Mike Anderson motioned to revoke Sheridan's certificate

Bonnie seconded

Motion carried

e. POST Director's Report

1. Approval of Certification Requests

Wayne brought to everyone's attention the new group of officers called Pre-trial probation officer. They are required by law to follow under POST. These officers do not attend the Probation and Parole Basic, but the Pre-Trial Association of American's Basic program out of state.

Wayne explained that when offenders first come into the courts system, they're charged, serve their time and when they get out, they are overseen by Pre-Trial Probation Officers until offender is due for trial.

Discussion held regarding how these categories of officers are/should be statutorily attached to POST.

Bonnie feels the curriculum committee should look into this.

Wayne stated that this section on the certificate list be held for further discussion on the agenda for our next meeting.

Winnie recapped discussion, stating the pre-trial certificates will be removed from the list, and the Curriculum committee will look at the Pre-Trial curriculum.

Wayne stated he already reviewed the out of state curriculum and is satisfied with it, as it is way more in depth than what we require for reserves and a lot less than officers.

Winnie again recapped by stating that if the pre-trial officers have gone to the pre-trial association 101 basic training, that would be the required training for the group of officer?

Tony Harbaugh asked if the POST council was in the right direction to dictate someone leave Montana for training?

Dennis stated that we should not punish our in-state officers because we don't have a curriculum set up for them specifically. (We have allowed them to do the general adult curriculum).

Dennis also commented if these officers have gone out of state for special training that the POST director says is equal to, or better than, what they can receive in state, then it should be approved.

Steve Barry commented that we have not yet figured out what authority they have to carry a firearm or not, and feels if they carry, what training do they receive in firearms use of force and is there a potential for liability if they certify a training and the officer is carrying?

James Marble brought up a point from previous discussion about that being individual agency discretion.

Steve Barry feels that if any officer is going to carry any weapon, they should probably be trained on it.

Wayne stated there was an addition of a Primary Instructor certificate which should be awarded to Levi Talkington.

Dennis motioned to approve the certification as given, with the addition of Levi Talkington to the instructor certificates and to include the pre-trial officers

Mike Anderson seconded

Motion carried

2. Approval of Extension Requests

Tony Harbaugh motioned to approve the extension request
Bob McCarthy seconded
Motion carried

3. Approval of Equivalency Requests

- William Smith from San Diego SO to Lewis & Clark County SO
- Frederick Brien from BIS to Big Horn County SO
- Susan Quandt from Island County Washington SO to Fairview PD
- Charles L. Leonard from Maricopa County to Yellowstone County
- William Smith from Joliet, IL PD to East Helena PD

E. Helena Chief requested that he attend EQ as a reserve officer and was denied. He already meets or exceeds the requirement of 88 hours to be a reserve.

Wayne stressed that he needs to be an employee to qualify for EQ. William Smith has since been hired as a part-time officer and asking to be granted EQ.

- Justin Smith from Oregon Basic Academy to Stillwater County

Smith was hired by Stillwater CO 5/5/08 but did not complete one full year at an agency in Oregon, however did complete the academy in OR. which meets or exceeds our requirements for academy basic.

- Roman Montoya – BLM: EQ would allow him to become a state certified officer, (following the same process we provide for Tribal Officers.)

Tony Harbaugh clarified that there are currently 7 BLM Rangers in MT. And in order for these MOU's to exist, it helps the officer to have Equivalency, but they are not getting cross deputized from county sheriffs, but would have the authority to hold until the locals come to assist without having to write them into federal court.

Steve Barry asked if the council was to approve the EQ for Justin Smith, if that would mean that it's okay 'not' to complete a full year?

Wayne explained that Smith would still have to complete one full year in Montana in order to receive his basic certificate.

Levi Talkington motioned to approve the equivalency requests
Mike Anderson seconded
Motion carried

4. Revocations/Suspensions Update

Wayne stated that by the next council meeting; whenever the council decides the date, he will have a list of suspensions/revocations to provide to the members.

6. Discussion Points

i. Previously awarded hours for supervisor training

Westfall comes to Montana occasionally for this training And in the past has submitted a training roster with 40 hrs of credit where in fact Westfall stated during conversation with Wayne that it's a 32 hr course.

Wayne suggested looking at whether or not for baseline supervisor/initial supervisor class to allow accreditation by the hour, or an 'accepted' program.

Dennis commented that any training in the past that was granted 40 hours for this training should just be left alone. From this time forward apply the accurate amount of hours.

Discussion held.

ii. Pre-employment Standards

Wayne asked council to consider a pre employment standard that says in order to be a public safety officer, you must come with a current First Aid/CPR card.

Kevin suggested providing a 4 hour elective course for those how come to the academy without a card.

Winnie had concerns of the wait time of up to a year before receiving a card which could be a risk to any agency.

Kevin suggested a 30 day window of opportunity from the time of hire to obtain a CPR/First Aid course.

Winnie clarified that this would be an employment standard (not a pre-employment standard).

Dennis had concerns that the applicant would be impacted by the cost of obtaining a card when is should be at the cost of the agency, not self. And states it would be hard on shifts.

iii. Data Base work/Hiring of Temp

Wayne explained POST was provided the funding by MLEA to acquire a temp thru Westaff Temp service which

will allow support to the database cleanup process. This contract will carry for 90 days. (not calendar days, but work days)

iv. Issues raised about Coroner training from a citizen.

Wayne provided a handout explaining the situation of a citizen unsatisfied with the results of a death certificate.

Discussion held.

Summary:

Wayne will respond to Ms. Taylor advising that the council is not in support to these changes in legislation; and that we don't carry legislation.

**Wayne provided to the council members his time management report to show his work/meetings/travel etc. timelines. Wayne stated that both himself and Tana are open to requests, suggestions etc.

Wayne expressed that he would not be disappointed if the council suggested that he no longer do training.

Dennis expressed concerns about return phone calls. And that Wayne should NOT be doing training with the pressures of the already present office duties.

Steve Barry stated that at some point the council should receive an annual Director's summary. Steve says there should be some guideline for Wayne as to what his goals should be.

Bonnie commented that our last meeting that we had an agreement that with our staff crunch that the committees were going to step up and take on more responsibility. Bonnie is on a few committees already and admits that her committee has fallen behind.

2:15

f. Committee Reports

1. Curriculum Committee – Dennis McCave

2. Business Plan Committee – Steve Barry

Winnie Ore turned the meeting over to Steve Barry.

Steve envisions operational planning a long range 3-4 years and should be updated at that point.

3. Integrity and professional standards –Bonnie Wallem/Levi Talkington

Bonnie state they have not met yet so has no report. She felt they gained direction in today's meeting.

Levi stated they need to promote the integrity issue and provide it more frequently. Suggested setting up an outlet for officers to discuss issue.

4. Policy Committee – Bonnie Wallem

5. Reserve Officer Program – James Marble

James provided a drafted letter regarding the Reserve program and asked that the committee review the letter for some input.

James will submit this letter to agencies via mass email to Chiefs, Sheriffs, Training Staff, then individual letters sent to Universities.

Steve Barry commented that if an agency has a Reserve Officer Curriculum, they would be more apt to submit it, where if an agency doesn't have a curriculum in place they might be more apprehensive.

Bonnie suggested as these curriculums start arriving, they be distributed to the council for review.

Ray Murray stated that if James gave him a copy and this letter, he would get it submitted to the Universities.

3:00 Break

3:15 g. MLEA Report

1. Mr. Kevin Olson – overview of MLEA

Kevin stated that next week was the approval for the final design on the new building. It will be open for bids in January 2009.

Kevin also stated that a new dorm building was presented in the budget, and was removed.

Curriculums:

CDOB - was provided to Dennis for review?

PSC – they were able to condense one topic to 1 hour and squeeze
In QPR (?)

LEOB – has only 40 students attending next basic. Kevin commented he feels good about keeping up with all the requests and reservations for the basic.

Kevin commented that MLEA utilizes MHP for many training courses so hope to soon have Highway Patrolman stationed at the academy as a training officer.

Pre-Service – currently been slow with results. Many applications get sent out with only few returns. Kevin commented there was

not a great turn over with the follow thru of the pre-service applicants.

Armando Oropeza – Program Manager for CDOB, has pulled together a DACUM group to develop a curriculum. He stated that communication, leadership components and hands on are very viable. This curriculum will include the additional 4th week in it's training.

Kevin commented that the juvenile group is starting to pull together their curriculum.

VIII. 3:45 Council Member Reports

Bob McCarthy – has two board committee meetings. Bob stated John Conner is not longer on the committee.

Steve Barry – stated this may be the last council meeting we would see Bob, so it was offered to have him rejoin as a public member.

Bonnie Wallem – looking for volunteers for possibly a “vista” volunteer.

Dennis McCave - stated Bozeman passed their jail bond (to build a new jail) and their food service has a national contract and Yellowstone said they had the contract to do the food service at 2 Rivers facility which will be functioning come March 2009.

Mike Reddick – MHP just graduated 18 new cadets about one week ago and were currently in the middle of a recruiting cycle and will hopefully have at least 10 new recruits ready.

James Marble – MPPA has no report to give.

James commented the last event was the combined conference in Billings with MSPOA.

James stated there had been some fiscal issues with the association and has been talk about areas to cut back on.

Ray Murray – no report

Tony Harbaugh – gearing up for Legislative Session.

December 18th will be meeting at the academy to provide opportunities for MPPA, Chiefs of Police, Sheriff's Assoc. to kick around Legislative issues.

April 19, 2009 in Law Enforcement Day at the Capitol.

Levi Talkington – no report

IX. 4:15 Public Comments - no public comment

X. 4:30 Adjourn:

Steve Barry suggested that when Wayne sends out his schedule, he informs the council of the next council meeting.

*** Executive Sessions are closed to the Public in order to protect the privacy rights of individuals.**

All times are approximate, actual times will vary depending on presentation/discussion time.